

Remarks

Claims 1-20 are pending. Claim 1 has been amended. Claim 8 has been cancelled. Claims 1, 9, 11, and 21 have been amended. Claim 21 is new. No new matter has been added.

Drawings:

The drawings are objected to under 37 CFR §1.83(a). More specifically, the Examiner states that the sensing unit, control element, support device, and balance beam in one or more of claims 8-20 must be shown. The Applicants have cancelled claims 8 and 10 that recite one or more of the sensing unit and the balance beam. Additionally, claims 11 and 11 have been amended to remove recitation of the sensing unit and/or the balance beam to overcome this objection. Figure 4 has been amended to show the support device (20) having the control element (21). Support for this drawing amendment can at least be found in paragraph [0025]. Additionally, paragraphs [0025], [0026], and [0028] have been amended to include the reference numbers for these elements. No new matter has been added. Therefore, the Applicants respectfully request that the objection to the drawings be withdrawn.

Claim Rejection – 35 USC §102:

Claims 1-7, 18, and 19 stand rejected under 35 USC §102(b) as being anticipated by EP 1147970 ('970 reference).

For a rejection grounded in anticipation under §102 to be proper, every element and limitation recited in the rejected claim(s) must be found in the cited 102 reference. *See* MPEP §2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Id.*, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). *See also, In re Paulsen*, 30 F.3d 1475 (Fed. Cir. 1994). The MPEP restricts the prior art that may be cited by an Examiner in making a §102(b) rejection to those where the "identical invention [is] shown in as complete detail as is contained in the ... [rejected] claim." *Id.*, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

The Applicants have amended claim 1 to recite, in part, “wherein the retaining bridge (12) is positioned **behind** rear wheel wells (9) with respect to the direction of travel (F); and at least one side attachment flange (13) positioned **behind** the center area (8), with respect to the direction of travel (F), such that the at least one side attachment flange (13) is attached to the underbody (2).” [emphasis added.]. Support for this amendment can at least be found in Figure 2 and in paragraph [0020].

The ‘970 reference teaches that the retaining bridge (10) is positioned **forward** of the rear wheels, with respect to the direction of travel (F). Therefore, the ‘970 reference fails to disclose or teach that the retaining bridge is positioned **behind** the rear wheels with respect to the direction of travel, as required by claim 1.

Therefore, the prior art references fail to disclose each and every element of claim 1, as amended, and the rejection should be withdrawn. Claim 1 is now in condition for allowance. Claims 2-7, 18, and 19, which depend from allowable claim 1, are allowable for at least the same reasons that claim 1 is allowable.

Claim Rejections – 35 USC §103(a):

Claims 8 and 9 are rejected under 35 USC §103(a) as being unpatentable over EP ‘970 reference in view of EP 0955228. Claim 8 has been cancelled.

Three basic criteria must be met to establish *prima facie* obviousness. MPEP §2143. First, there must be some suggestion or motivation to modify a reference or combine teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference or references (or the references when combined) must teach or suggest all the claimed limitations.

Applicants submit that the Examiner has not met the burden of proof for establishing *prima facie* obviousness for at least the reason that the prior art references do not teach or suggest all the claimed limitations and, thus, the third criterion necessary to establish *prima facie* obviousness has not been satisfied.

Claims 9 has been amended to depend from allowable claim 1. Therefore, there combined prior art references do not teach or suggest all the claimed limitations. Therefore, the rejection of claim 9 is overcome and should be withdrawn.

Allowable Subject Matter:

The Examiner indicated that claim 10 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. However, as discussed above, claim 9 and 10 have been cancelled to overcome the drawing objection. Additionally, the Examiner indicated that claims 11-17 and 20 were allowable.

The Applicants have amended claims 1, 11, and 20 to remove references to the sensing unit and the balance beam and added the following limitation; “wherein the retaining bridge (12) is positioned behind rear wheel wells (9) with respect to the direction of travel (F).”

New Claim:

Claim 21 is new and support can at least be found Figure 2 and in paragraph [21]. No new matter has been added.

CONCLUSIONS

This Amendment is believed to be fully responsive to the Office Action mailed December 23, 2008. The amendments to the claims, the remarks in support of the amended and rejected claims, and the new claims are believed to place this application in condition for allowance, which action is respectfully requested.

Respectfully submitted,

Helmut Von Stock-Hausen-Petersen, et al.

By 

Christopher W. Quinn
Reg. No. 38,274

Date: 2/20/09

QUINN LAW GROUP, PLLC
39555 Orchard Hill Place, Ste. 520
Novi, Michigan 48375
Phone: 248-380-9300
Fax: 248-380-8968